

2655 IFW

WARE, FRESSOLA, VAN DER SLUYS
& ADOLPHSON LLP

Patent, Trademark, Copyright and Computer Law Counsel
www.wfva.net

BRADFORD GREEN, BUILDING FIVE
MAIN STREET

POST OFFICE BOX 224
MONROE, CONNECTICUT 06468

TELEPHONE: (203) 261-1234
FACSIMILE: (203) 261-5676
E-MAIL: mail@wfva.net

United States Patent and Trademark Office
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Re: Application No. 09/911,109
Examiner: James S. Wozniak
Nashida, et al.

Dear Sirs,

Please find enclosed an office communication dated July 26, 2005 which we received in error. The cover sheet pertains to one of our files, but the rest of the document pertains to another serial number #09/911,109 which is not one of our files.

We did, however, receive the office action that does pertain to the serial number 10/608,785 on the cover sheet (a second document that came the same day).

We are just returning it, to bring it to your attention, in case it did not get to the proper party.

Very truly yours,


Anatoly Frenkel

AZF/mef
Enc.

PETER C. VAN DER SLUYS (1939-1991)

ALFRED A. FRESSOLA
K. BRADFORD ADOLPHSON
FRANCIS J. MAGUIRE
WILLIAM J. BARBER
JAMES A. RETTER, Ph.D.
JAMES R. FREDERICK
MILTON M. OLIVER*
JACK M. PASQUALE
ANDREW T. HYMAN

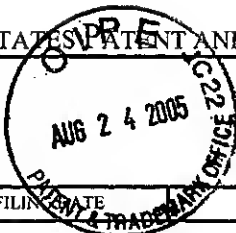
KENNETH Q. LAO, Ph.D., Patent Agent
ANATOLY FRENKEL, Ph.D., Patent Agent
SHIMING WU, Ph.D., Technical Advisor

OF COUNSEL: ROBERT H. WARE

*MA and NY Bar



UNITED STATES PATENT AND TRADEMARK OFFICE



UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,785	06/27/2005	Gerald Enzner	944-003.177	8105

4955 7590 07/26/2005

WARE FRESSOLA VAN DER SLUYS &
ADOLPHSON, LLP
BRADFORD GREEN BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

EXAMINER

BRINEY III, WALTER F

ART UNIT PAPER NUMBER

2646

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

RECEIVED
WARE, FRESSOLA, VAN DER SLUYS
& ADOLPHSON

JUL 29 2005

FILE 944-003.177
ANS'D. *any*



**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/911,109

Applicant(s)

NASHIDA ET AL.

Examiner

James S. Wozniak

Art Unit

2655

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 7/5/2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-52.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

W. R. YOUNG
PRIMARY EXAMINER

Continuation of 3. NOTE: Added claims 53-55 present newly claimed limitations that would require further search and/or consideration.

Continuation of 11. does NOT place the application in condition for allowance because: The prior position of record is maintained. Also the examiner notes that Yamamoto (U.S. Patent: 5,923,337) teaches generating an ambient state enabling a personified assistant to make motions in a proper way when an interactive operating system is placed in a wait state when there is no voice input (Col. 14, Line 32- Col. 15, Line 3). The presently claimed invention requires either enabling a personified assistant to make motions in a proper way OR to act as if urging the user to input commands using the input speech recognition means when the interactive operating system is placed in a wait state. Thus, since Yamamoto teaches the generation of an ambient state wherein an animated assistant makes proper motions such as eyebrow raising and foot tapping to indicate the absence of a voice input, Yamamoto teaches the limitation regarding the generation of an ambient state.



W. R. YOUNG
PRIMARY EXAMINER

NEW CENTRAL FAX NUMBER

Effective July 15, 2005

On July 15, 2005, the Central FAX Number will change to **571-273-8300**. This new Central FAX Number is the result of relocating the Central FAX server to the Office's Alexandria, Virginia campus.

Most facsimile-transmitted patent application related correspondence is required to be sent to the Central FAX Number. To give customers time to adjust to the new Central FAX Number, faxes sent to the old number (703-872-9306) will be routed to the new number until September 15, 2005.

After September 15, 2005, the old number will no longer be in service and **571-273-8300** will be the only facsimile number recognized for "centralized delivery".

CENTRALIZED DELIVERY POLICY: For patent related correspondence, hand carry deliveries must be made to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314), and facsimile transmissions must be sent to the Central FAX number, unless an exception applies. For example, if the examiner has rejected claims in a regular U.S. patent application, and the reply to the examiner's Office action is desired to be transmitted by facsimile rather than mailed, the reply must be sent to the Central FAX Number.